

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**AUG 24 2006**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

CLIFFORD STUBBS,

Petitioner - Appellant,

v.

MICHAEL BUDGE; BRIAN  
SANDOVAL,

Respondents - Appellees.

No. 05-16640

D.C. No. CV-03-00033-ECR

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Nevada  
Edward C. Reed, District Judge, Presiding

Argued and Submitted August 16, 2006  
San Francisco, California

Before: CANBY, THOMPSON, and HAWKINS, Circuit Judges.

Clifford Stubbs (“Stubbs”) appeals the district court’s denial of his petition for writ of habeas corpus. This Court has jurisdiction under 28 U.S.C. § 2253. We review de novo the district court’s denial, *Ferrizz v. Giurbino*, 432 F.3d 990, 992

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

(9th Cir. 2005), and we affirm.

The state court's decision that the prosecutor complied with the plea agreement at Stubbs' resentencing was not contrary to the federal law requiring prosecutors to honor plea agreements. *See* 28 U.S.C. § 2254(d); *see also Williams v. Taylor*, 529 U.S. 362, 405-07 (2000) (explaining that the contrary-to prong of § 2254(d) applies when the state court fails to identify or apply the controlling federal standard); *Santobello v. New York*, 404 U.S. 257, 262-63 (1971) (holding that a prosecutor must fulfill any promise on which the plea rests). The sentencing court understood that the State was bound to recommend the agreed-upon sentence. The court prohibited the prosecutor from making other sentencing recommendations and it did not construe any of the prosecutor's comments as advocating a sentence other than the stipulated one.

The state court did not unreasonably apply federal law in rejecting Stubbs' ineffective-assistance-of-counsel claim. The state court correctly identified *Strickland v. Washington*, 466 U.S. 668, 687 (1984), as the federal standard for such claims and reasonably applied it to the facts.

We therefore AFFIRM the denial of Stubbs' habeas petition.